

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LARRY D. CHEATHAM,
Plaintiff,

v.

HEATHER L. HAYE, *et al.*,
Defendants.
_____ /

Case No.: 19-10480

Terrence G. Berg
United States District Judge

Curtis Ivy, Jr.
United States Magistrate Judge

**ORDER STRIKING PLAINTIFF'S RESPONSE TO
DEFENDANT HAYE'S ANSWER TO COMPLAINT (ECF No. 66)**

On March 30, 2021, Plaintiff Larry Cheatham filed a response to Defendant Haye's answer to the complaint. (ECF No. 66). Federal Rule of Civil Procedure 7(a) identifies the permissible pleadings and provides that a reply to an answer is permissible only "if the court orders one." Fed. R. Civ. P. 7(a)(7). The Court did not order such and does not find a reply is necessary. Plaintiff cites Federal Rule of Civil Procedure 12(c) to support the permissibility of his response. (ECF No. 66, PageID.375). However, Rule 12(c) addresses when a party may move for Motion for Judgment on the Pleadings. Thus the Court believes Plaintiff intended to refer to Rule 12(a)(1)(C). Nonetheless, Rule 12(a)(1)(C) does not permit Plaintiff to file a response to Defendant Haye's answer as, similar to Rule 7(a), it states a reply to an answer may be served after being a party is served with an order to reply. Therefore, Plaintiff's response to Defendant Haye's answer is an

unauthorized pleading. *See Crosky v. Ohio Dep't of Rehab. & Corrs.*, 2010 WL 3061816, at *2 (S.D. Ohio Aug. 3, 2010) (striking unauthorized reply to answer, despite inclusion of language in the answer requesting dismissal of the complaint with prejudice, because such language is “little more than a restatement of the defense of failure to state a claim upon which relief can be granted, and that is one of the defenses allowed to be asserted in the responsive pleading”); *see also Phifer v. Grand Rapids*, 2009 WL 1771177, at *3 (W.D. Mich. June 23, 2009) (“Plaintiff’s status as a *pro se* litigant does not excuse her from following court rules.”). Accordingly, the Court **STRIKES** Plaintiff’s answer to the complaint. (ECF No. 66)..

IT IS SO ORDERED.

Review of this Order is governed by Federal Rule of Civil Procedure 72(a) and Local Rule 72.1(d).

Date: April 16, 2021

s/Curtis Ivy, Jr.
Curtis Ivy, Jr.
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 16, 2021, by electronic means and/or ordinary mail.

s/Holly Monda
Holly Monda in the absence of
Kristen MacKay
Case Manager
(810) 341-7850